

PRIORITY SEND

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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES -- GENERAL

Case No. CV 14-1413-VAP
USBC Case No. 1:12-BK-11243-AA
ADVERSARY Case No. N/A

Date: July 11, 2014

Title: IN RE: PETER BROWN KLEIDMAN v. CASWELL & ASSOCIATES

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PRESENT: HONORABLE VIRGINIA A. PHILLIPS, U.S. DISTRICT JUDGE

Marva Dillard
Courtroom Deputy

None Present
Court Reporter

ATTORNEYS PRESENT FOR
PLAINTIFFS:

ATTORNEYS PRESENT FOR
DEFENDANTS:

None

None

PROCEEDINGS: MINUTE ORDER REVERSING BANKRUPTCY COURT'S
ORDER GRANTING MOTION FOR AN ORDER TO
COMPEL PAYMENT AND DETERMINE
NONDISCHARGEABLE CLAIM (IN CHAMBERS)

On February 25, 2014, the Court received this appeal from the Bankruptcy Court. (Doc. No. 1.) On April 29, 2014, after receiving a Certificate of Readiness with respect to this appeal, the Court issued a briefing schedule for this case. (Doc. No. 11.) The Court ordered Appellant to submit his opening brief not later than May 13, 2014. Appellee was ordered to submit its brief not later than fourteen days after service of Appellant's opening brief.

On May 12, 2014, Appellant filed his opening brief, with a proof of service effectuated on Appellee on May 10, 2014. (Doc. No. 12.) Appellee's brief was due

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IN RE: PETER BROWN KLEIDMAN
MINUTE ORDER of July 11, 2014

on May 27, 2014. To date, Appellee has not filed its brief.

Rule 4.4 of the Local Rules Governing Bankruptcy Appeals provides that "[i]f an appellee fails to file a brief within the time provided by these rules, the district court may deem it a consent to the granting of the relief sought on appeal." As Appellee has failed to file a brief within the time provided, the Court GRANTS Appellant's relief sought and REVERSES the Bankruptcy Court's Order Granting Motion for an Order to Compel Payment and Determine Nondischargeable Claim, issued on February 18, 2014. As Appellant requests, the "confirmed plan of reorganization," which calls for no payment to Appellee, shall not be modified, and the issue of dischargeability must be determined in an adversary proceeding in Bankruptcy Court. Appellant may submit a request for reimbursement of his costs of appeal, pursuant to Federal Rules of Bankruptcy Procedure 8014.

IT IS SO ORDERED.